

2012

CUMULATIVE SUPPLEMENT

TO

MISSISSIPPI CODE

1972 ANNOTATED

Issued September, 2012

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH THE 2012 REGULAR SESSION
OF THE LEGISLATURE

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SUPPLEMENTING

Volume 17

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By the Editorial Staff of the Publisher



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User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.



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PUBLISHER'S FOREWORD

Statutes

The 2012 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2012 Regular Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 2nd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal Series
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2012 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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September 2012

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SCHEDULE OF NEW SECTIONS

Added in this Supplement

TITLE 77. PUBLIC UTILITIES AND CARRIERS

CHAPTER 1. Public Service Commission

SEC.

77-1-55.

Commission authorized to hire attorneys or consultants to monitor, investigate and seek relief from existing or proposed interstate rates, charges, etc. [Repealed effective July 1, 2013].

CHAPTER 3. Regulation of Public Utilities

ARTICLE 17. CALLER ID ANTI-SPOOFING ACT

77-3-801.

Short title.

77-3-803.

Definitions.

77-3-805.

Prohibition against entering false information into telephone caller identification system or placing call knowing false information was entered into telephone caller identification system.

77-3-807.

Exceptions.

77-3-809.

Penalties.

CHAPTER 9. Railroads and Other Common Carriers

ARTICLE 3. RAILROADS AND RAILROAD CORPORATIONS

SAFETY

77-9-250.

Operation Lifesaver Program; purpose; Operation Lifesaver Fund created; sources of funds.

CHAPTER 13. Regulation of Excavations Near Underground Utility Facilities

77-13-23.

Operator waives right to recover damages to operator's underground facilities under certain circumstances; exemption.

MISSISSIPPI CODE 1972

ANNOTATED

VOLUME SEVENTEEN

TITLE 77

PUBLIC UTILITIES AND CARRIERS

Chapter 1.	Public Service Commission	77-1-1
Chapter 3.	Regulation of Public Utilities	77-3-1
Chapter 5.	Electric Power	77-5-1
Chapter 9.	Railroads and Other Common Carriers	77-9-1
Chapter 11.	Gas Pipelines and Distribution Systems	77-11-1
Chapter 13.	Regulation of Excavations Near Underground Utility Facilities	77-13-1
Chapter 15.	Local Natural Gas Districts	77-15-1

CHAPTER 1

Public Service Commission

SEC.

77-1-51.

Repeal of §§ 77-1-1 through 77-1-49.

77-1-55.

Commission authorized to hire attorneys or consultants to monitor, investigate and seek relief from existing or proposed interstate rates, charges, etc. [Repealed effective July 1, 2013].

§ 77-1-1. Creation of commission; terms, compensation and qualifications of commissioners [Repealed effective December 31, 2013].

SOURCES: Codes, 1942, § 7688; Laws, 1938, ch. 139; Laws, 1948, ch. 417, § 1; Laws, 1952, ch. 330, § 1; Laws, 1956, ch. 371, § 1; Laws, 1960, ch. 394, § 1; Laws, 1964, ch. 542, § 6; Laws, 1966, ch. 445, § 23; reenacted without change, Laws, 1982, ch. 389, § 1; Laws, 1989, ch. 573, § 1; reenacted, Laws, 1990, ch. 530, § 1; reenacted and amended, Laws, 1993, ch. 616, § 1; reenacted without change, Laws, 1996, ch. 526, § 1; reenacted without change, Laws, 1998, ch. 303, § 1; reenacted without change, Laws, 2002, ch. 452, § 1; reenacted without change, Laws, 2006, ch. 386, § 1; reenacted without change, Laws, 2008, ch. 406, § 1; reenacted without change, Laws, 2011, ch. 456, § 1; reenacted without change, Laws, 2012, ch. 542, § 1, eff from and after July 1, 2012.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 456, effective the later of December 31, 2011, or the date the Attorney General interposes no objection to the reenactment of the section. Since the language of the

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Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-3. Seal [Repealed effective December 31, 2013].

SOURCES: Codes, 1942, § 7695; Laws, 1938, ch. 139; reenacted without change, Laws, 1982, ch. 382, § 2; reenacted, Laws, 1990, ch. 530, § 2; reenacted without change, Laws, 1993, ch. 616, § 2; reenacted without change, Laws, 1996, ch. 526, § 2; reenacted without change, Laws, 1998, ch. 303, § 2; reenacted without change, Laws, 2002, ch. 452, § 2; reenacted without change, Laws, 2006, ch. 386, § 2; reenacted without change, Laws, 2008, ch. 406, § 2; reenacted without change, Laws, 2011, ch. 456, § 2; reenacted without change, Laws, 2012, ch. 542, § 2, eff from and after July 1, 2012.

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Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-5. Office, meetings and minutes of commission [Repealed effective December 31, 2013].

SOURCES: Codes, 1942, §§ 7688, 7696; Laws, 1938, ch. 139; Laws, 1948, ch. 417, § 1; Laws, 1952, ch. 330, § 1; Laws, 1956, ch. 371, § 1; Laws, 1960, ch. 394, § 1; Laws, 1964, ch. 542, § 6; Laws, 1966, ch. 445, § 23; reenacted without change, Laws, 1982, ch. 389, § 3; reenacted, Laws, 1990, ch. 530, § 3; reenacted without change, Laws, 1993, ch. 616, § 3; reenacted without change, Laws, 1996, ch. 526, § 3; reenacted without change, Laws, 1998, ch. 303, § 3; reenacted without change, Laws, 2002, ch. 452, § 3; reenacted without change, Laws, 2006, ch. 386, § 3; reenacted without change, Laws, 2008, ch. 406, § 3; reenacted without change, Laws, 2011, ch. 456, § 3; reenacted without change, Laws, 2012, ch. 542, § 3, eff from and after July 1, 2012.

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Amendment Notes — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

§ 77-1-6. Establishment of Public Service Commission Regulation Fund; administration; annual audit [Repealed effective December 31, 2013].

SOURCES: Laws, 1987, ch. 343, § 1; reenacted and amended, Laws, 1990, ch. 530, § 4; Laws, 1991, ch. 525, § 3; reenacted without change, Laws, 1993, ch. 616, § 4; Laws, reenacted without change, Laws, 1996, ch. 526, § 4 ; reenacted without change, Laws, 1998, ch. 303, § 4; reenacted without change, Laws, 2002, ch. 452, § 4; reenacted without change, Laws, 2006, ch. 386, § 4; reenacted without change, Laws, 2008, ch. 406, § 4; reenacted without change, Laws, 2011, ch. 456, § 4; reenacted without change, Laws, 2012, ch. 542, § 4, eff from and after July 1, 2012.

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This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

§ 77-1-11. Acceptance by or offering to commission members, candidates or employees of gifts, passes, campaign contributions or other benefits [Repealed effective December 31, 2013].

SOURCES: Codes, 1892, § 4274; 1906, § 4827; Hemingway's 1917, § 7612; 1930, § 7026; 1942, §§ 7688, 7807; Laws, 1938, ch. 139; Laws, 1948, ch. 417, § 1; Laws, 1952, ch. 330, § 1; Laws, 1956, ch. 371, § 1; Laws, 1960, ch. 394, § 1; Laws, 1964, ch. 542, § 6; Laws, 1966, ch. 445, § 23; reenacted without change, Laws, 1982, ch. 389, § 6; reenacted and amended, Laws, 1990, ch. 530, § 5; Laws, 1991, ch. 586, § 1; reenacted and amended, Laws, 1993, ch. 616, § 5; reenacted without change, Laws, 1996, ch. 526, § 5; reenacted without change, Laws, 1998, ch. 303, § 5; reenacted without change, Laws, 2002, ch. 452, § 5; reenacted without change, Laws, 2006, ch. 386, § 5; reenacted without change, Laws, 2008, ch. 406, § 5; reenacted without change, Laws, 2011, ch. 456, § 5; reenacted without change, Laws, 2012, ch. 542, § 5, eff from and after July 1, 2012.

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Amendment Notes — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

ATTORNEY GENERAL OPINIONS

Campaign contributions legally received from regulated utility companies during a prior Mississippi House of Representatives campaign, that were not spent during that campaign, can be used in a prospective upcoming campaign for Public Service Commissioner even though they would otherwise be prohibited contri-

butions, so long as they were made prior to any discussion or consideration of running for Public Service Commissioner and prior to becoming a candidate for the office, as described in Miss. Code Ann. § 77-1-11. Ellington, February 9, 2007, A.G. Op. #07-00071, 2007 Miss. AG LEXIS 20.

§ 77-1-15. Employment and duties of executive secretary [Repealed effective December 31, 2013].

SOURCES: Codes, 1942, § 7689; Laws, 1938, ch. 139; Laws, 1946, ch. 352, § 2; Laws, 1948, ch. 418, § 1; Laws, 1952, ch. 330, § 2; Laws, 1958, ch. 350, § 1; Laws, 1960, ch. 394, § 2; Laws, 1966, ch. 445, § 24; reenacted without change, Laws, 1982, ch. 389, § 8; Laws, 1987, ch. 343, § 2; reenacted and amended, Laws, 1990, ch. 530, § 6; reenacted without change, Laws, 1993, ch. 616, § 6; reenacted without change, Laws, 1996, ch. 526, § 6; reenacted without change, Laws, 1998, ch. 303, § 6; reenacted without change, Laws, 2002, ch. 452, § 6; reenacted without change, Laws, 2006, ch. 386, § 6; reenacted without change, Laws, 2008, ch. 406, § 6; reenacted without change, Laws, 2011, ch. 456, § 6; reenacted without change, Laws, 2012, ch. 542, § 6, eff from and after July 1, 2012.

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Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-17. Employment and duties of rate expert and assistant [Repealed effective December 31, 2013].

SOURCES: Codes, 1942, § 7690; Laws, 1938, ch. 139; Laws, 1946, ch. 352, § 3; Laws, 1948, ch. 418, § 2; Laws, 1952, ch. 330, § 3; Laws, 1958, ch. 350, § 2; Laws, 1966, ch. 445, § 25; reenacted without change, Laws, 1982, ch. 389,

§ 9; reenacted and amended, Laws, 1990, ch. 530, § 7; reenacted without change, Laws, 1993, ch. 616, § 7; reenacted without change, Laws, 1996, ch. 526, § 7; reenacted without change, Laws, 1998, ch. 303, § 7; reenacted the section without change, Laws, 2002, ch. 452, § 7; reenacted without change, Laws, 2006, ch. 386, § 7; reenacted without change, Laws, 2008, ch. 406, § 7; reenacted without change, Laws, 2011, ch. 456, § 7; reenacted without change, Laws, 2012, ch. 542, § 7, eff from and after July 1, 2012.

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Amendment Notes — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

§ 77-1-19. Employment of personnel to implement Motor Carrier Regulatory Law [Repealed effective December 31, 2013].

SOURCES: Codes, 1942, § 7692; Laws, 1938, ch. 139; Laws, 1944, ch. 268, § 2; Laws, 1946, ch. 352, § 5; Laws, 1948, chs. 327, § 10, 418, § 3; Laws, 1952, ch. 330, § 4; Laws, 1958, ch. 350, § 3; Laws, 1960, ch. 394, § 3; Laws, 1966, ch. 445, § 26; Laws, 1968, ch. 535, § 1; Laws, 1974, ch. 311; Laws, 1978, ch. 377, § 1; reenacted, Laws, 1982, ch. 389, § 10; reenacted and amended, Laws, 1990, ch. 530, § 8; reenacted without change, Laws, 1996, ch. 526, § 8; reenacted without change, Laws, 1998, ch. 303, § 8; reenacted without change, Laws, 2002, ch. 452, § 8; reenacted without change, Laws, 2006, ch. 386, § 8; reenacted without change, Laws, 2008, ch. 406, § 8; reenacted without change, Laws, 2011, ch. 456, § 8; reenacted without change, Laws, 2012, ch. 542, § 8, eff from and after July 1, 2012.

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Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-21. Employment of enforcement officer and inspectors to implement Motor Carrier Regulatory Law [Repealed effective December 31, 2013].

SOURCES: Codes, 1942, § 7692-01; Laws, 1958, ch. 505, § 2; Laws, 1962, ch. 512, § 1; Laws, 1966, ch. 445, § 27; Laws, 1982, ch. 389, § 11; reenacted, Laws, 1990, ch. 530, § 9; reenacted, Laws, 1993, ch. 616, § 8; reenacted without change, Laws, 1996, ch. 526, § 9; reenacted without change, Laws, 1998, ch. 303, § 9; reenacted without change, Laws, 2002, ch. 452, § 9; Laws, 2004, ch. 595, § 22; reenacted without change, Laws, 2006, ch. 386, § 9; reenacted without change, Laws, 2008, ch. 406, § 9; reenacted without change, Laws, 2011, ch. 456, § 9; reenacted without change, Laws, 2012, ch. 542, § 9, eff from and after July 1, 2012.

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Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-25. Use of commission property and political activity regulated [Repealed effective December 31, 2013].

SOURCES: Codes, 1942, §§ 7692-07, 7806-07; Laws, 1958, ch. 505, § 8; Laws, 1970, ch. 429, § 7; reenacted without change, Laws, 1982, ch. 389, § 13; reenacted, Laws, 1990, ch. 530, § 11; reenacted and amended, Laws, 1993, ch. 616, § 9; reenacted without change, Laws, 1996, ch. 526, § 10; reenacted

without change, Laws, 1998, ch. 303, § 10; reenacted without change, Laws, 2002, ch. 452, § 10; reenacted without change, Laws, 2006, ch. 386, § 10; reenacted without change, Laws, 2008, ch. 406, § 10; reenacted without change, Laws, 2011, ch. 456, § 10; reenacted without change, Laws, 2012, ch. 542, § 10, eff from and after July 1, 2012.

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By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-27. Payment of salaries [Repealed effective December 31, 2013].

SOURCES: Codes, 1942, §§ 7691, 7693, 7806-09; Laws, 1938, ch. 139; Laws, 1944, ch. 268, §§ 1, 2; Laws, 1946, ch. 352, §§ 4, 5; Laws, 1948, ch. 327, § 11; ch. 417, § 2; Laws, 1952, ch. 330, § 5; Laws, 1956, ch. 371, §§ 2, 3; Laws, 1958, ch. 350, § 4; Laws, 1960, ch. 394, § 4; Laws, 1966, ch. 445, § 28; Laws, 1970, ch. 429, § 9; reenacted without change, Laws, 1982, ch. 389, § 14; Laws, 1987, ch. 343, § 3; reenacted and amended, Laws, 1990, ch. 530, § 12; Laws, 1991, ch. 525, § 4; Laws, 1992, ch. 496, § 59; reenacted, Laws, 1993, ch. 616, § 10; reenacted without change, Laws, 1996, ch. 526, § 11; reenacted without change, Laws, 1998, ch. 303, § 11; reenacted without change, Laws, 2002, ch. 452, § 11; reenacted without change, Laws, 2006, ch. 386, § 11; reenacted without change, Laws, 2008, ch. 406, § 11; reenacted without change, Laws, 2011, ch. 456, § 11; reenacted without change, Laws, 2012, ch. 542, § 11, eff from and after July 1, 2012.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 456, effective the later of December 31, 2011, or the date the Attorney General interposes no objection to the reenactment of the section. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Laws of 2011, ch. 456, § 24 provides:

"SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall

take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended."

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-29. Payments to and disbursements from Public Service Commission Regulation Fund [Repealed effective December 31, 2013].

SOURCES: Codes, 1942, § 7694; Laws, 1938, ch. 139; Laws, 1944, ch. 268, § 3; Laws, 1946, ch. 352, § 5; Laws, 1948, ch. 327, § 12; Laws, 1952, ch. 330, § 6; Laws, 1958, ch. 505, § 11; Laws, 1962, ch. 512, § 2; Laws, 1966, ch. 541, § 2; Laws, 1968, ch. 536; Laws, 1972, ch. 472, § 1; Laws, 1974, ch. 312; Laws, 1978, ch. 518, § 1; Laws, 1981, ch. 345, § 1; reenacted, Laws, 1982, ch. 389, § 15; Laws, 1983, ch. 530; Laws, 1987, ch. 343, § 4; reenacted and amended, Laws, 1990, ch. 530, § 13; Laws, 1991, ch. 525, § 5; reenacted without change, Laws, 1993, ch. 616, § 11; reenacted without change, Laws, 1996, ch. 526, § 12; reenacted without change, Laws, 1998, ch. 303, § 12; reenacted without change, Laws, 2002, ch. 452, § 12; reenacted without change, Laws, 2006, ch. 386, § 12; reenacted without change, Laws, 2008, ch. 406, § 12; reenacted without change, Laws, 2011, ch. 456, § 12; reenacted without change, Laws, 2012, ch. 542, § 12, eff from and after July 1, 2012.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 456, effective the later of December 31, 2011, or the date the Attorney General interposes no objection to the reenactment of the section. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Laws of 2011, ch. 456, § 24 provides:

"SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended."

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-31. Docket of petitions and complaints [Repealed effective December 31, 2013].

SOURCES: Codes, 1892, § 4280; 1906, § 4832; Hemingway's 1917, § 7617; 1930, § 7031; 1942, § 7808; reenacted without change, Laws, 1982, ch. 389, § 16; reenacted, Laws, 1990, ch. 530, § 14; reenacted without change, Laws, 1993, ch. 616, § 12; reenacted without change, Laws, 1996, ch. 526, § 13; reenacted without change, Laws, 1998, ch. 303, § 13; reenacted without change, Laws, 2002, ch. 452, § 13; reenacted without change, Laws, 2006, ch. 386, § 13; reenacted without change, Laws, 2008, ch. 406, § 13; reenacted without change, Laws, 2011, ch. 456, § 13; reenacted without change, Laws, 2012, ch. 542, § 13, eff from and after July 1, 2012.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 456, effective the later of December 31, 2011, or the date the Attorney General interposes no objection to the reenactment of the section. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Laws of 2011, ch. 456, § 24 provides:

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By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-33. Process for witnesses; penalty for failure to testify [Repealed effective December 31, 2013].

SOURCES: Codes, 1892, § 4285; 1906, § 4837; Hemingway's 1917, § 7622; 1930, § 7034; 1942, § 7811; reenacted without change, Laws, 1982, ch. 389, § 17; reenacted and amended, Laws, 1990, ch. 530, § 15; reenacted without change, Laws, 1993, ch. 616, § 13; reenacted without change, Laws, 1996, ch. 526, § 14; reenacted without change, Laws, 1998, ch. 303, § 14; reenacted without change, Laws, 2002, ch. 452, § 14; reenacted without change, Laws, 2006, ch. 386, § 14; reenacted without change, Laws, 2008, ch. 406, § 14; reenacted without change, Laws, 2011, ch. 456, § 14; reenacted without change, Laws, 2012, ch. 542, § 14, eff from and after July 1, 2012.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 456, effective the later of December 31, 2011, or the date the Attorney General interposes no objection to the reenactment of the section. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Laws of 2011, ch. 456, § 24 provides:

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By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-35. Administration of oaths; taking of affidavits; examination of witnesses; perjury [Repealed effective December 31, 2013].

SOURCES: Codes, 1892, § 4279; 1906, § 4831; Hemingway's 1917, § 7616; 1930, § 7035; 1942, § 7812; reenacted without change, Laws, 1982, ch. 389, § 18; reenacted, Laws, 1990, ch. 530, § 16; reenacted without change, Laws, 1993, ch. 616, § 14; reenacted without change, Laws, 1996, ch. 526, § 15; reenacted without change, Laws, 1998, ch. 303, § 15; reenacted without change, Laws, 2002, ch. 452, § 15; reenacted without change, Laws, 2006, ch. 386, § 15; reenacted without change, Laws, 2008, ch. 406, § 15; reenacted without change, Laws, 2011, ch. 456, § 15; reenacted without change, Laws, 2012, ch. 542, § 15, eff from and after July 1, 2012.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 456, effective the later of December 31, 2011, or the date the Attorney General interposes no objection to the reenactment of the section. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

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“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-37. Payment of witnesses [Repealed effective December 31, 2013].

SOURCES: Codes, 1892, § 4335; 1906, § 4889; Hemingway's 1917, § 7676; 1930, § 7036; 1942, § 7813; Laws, 1908, ch. 85; reenacted without change, Laws, 1982, ch. 389, § 19; reenacted, Laws, 1990, ch. 530, § 17; reenacted and amended, Laws, 1993, ch. 616, § 15; reenacted without change, Laws, 1996, ch. 526, § 16; reenacted without change, Laws, 1998, ch. 303, § 16; reenacted without change, Laws, 2002, ch. 452, § 16; reenacted without change, Laws, 2006, ch. 386, § 16; reenacted without change, Laws, 2008, ch. 406, § 16; reenacted without change, Laws, 2011, ch. 456, § 16; reenacted without change, Laws, 2012, ch. 542, § 16, eff from and after July 1, 2012.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 456, effective the later of December 31, 2011, or the date the Attorney General interposes no objection to the reenactment of the section. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

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“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

§ 77-1-39. Transcripts of oral testimony [Repealed effective December 31, 2013].

SOURCES: Codes, 1930, § 7037; 1942, § 7814; Laws, 1926, ch. 128; reenacted without change, Laws, 1982, ch. 389, § 20; reenacted and amended, Laws, 1990, ch. 530, § 18; reenacted without change, Laws, 1993, ch. 616, § 16; reenacted without change, Laws, 1996, ch. 526, § 17; reenacted without change, Laws, 1998, ch. 303, § 17; reenacted without change, Laws, 2002, ch. 452, § 17; reenacted without change, Laws, 2006, ch. 386, § 17; reenacted without change, Laws, 2008, ch. 406, § 17; reenacted without change, Laws, 2011, ch. 456, § 17; reenacted without change, Laws, 2012, ch. 542, § 17, eff from and after July 1, 2012.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 456, effective the later of December 31, 2011, or the date the Attorney General interposes no objection to the reenactment of the section. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Laws of 2011, ch. 456, § 24 provide:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-41. Findings and determinations shall be in writing; proof and effect thereof [Repealed effective December 31, 2013].

SOURCES: Codes, 1892, § 4284; 1906, § 4836; Hemingway’s 1917, § 7621; 1930, § 7038; 1942, § 7815; reenacted without change, Laws, 1982, ch. 389, § 21; reenacted, Laws, 1990, ch. 530, § 19; reenacted without change, Laws, 1993, ch. 616, § 17; reenacted without change, Laws, 1996, ch. 526, § 18; reenacted without change, Laws, 1998, ch. 303, § 18; reenacted without change, Laws, 2002, ch. 452, § 18; reenacted without change, Laws, 2006, ch. 386, § 18; reenacted without change, Laws, 2008, ch. 406, § 18; reenacted without change, Laws, 2011, ch. 456, § 18; reenacted without change, Laws, 2012, ch. 542, § 18, eff from and after July 1, 2012.

Editor’s Note — This section was reenacted without change by Laws of 2011, ch. 456, effective the later of December 31, 2011, or the date the Attorney General interposes no objection to the reenactment of the section. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

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“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-43. Enforcement of laws and orders, decisions and determinations of commission [Repealed effective December 31, 2013].

SOURCES: Codes, 1892, § 4286; 1906, § 4838; Hemingway's 1917, § 7623; 1930, § 7040; 1942, §§ 7701, 7817; Laws, 1938, ch. 139; reenacted without change, Laws, 1982, ch. 389, § 22; reenacted and amended, Laws, 1990, ch. 530, § 20; reenacted without change, Laws, 1993, ch. 616, § 18; reenacted without change, Laws, 1996, ch. 526, § 19; reenacted without change, 1998, ch. 303, § 19; reenacted without change, Laws, 2002, ch. 452, § 19; reenacted without change, Laws, 2006, ch. 386, § 19; reenacted without change, Laws, 2008, ch. 406, § 19; reenacted without change, Laws, 2011, ch. 456, § 19; reenacted without change, Laws, 2012, ch. 542, § 19, eff from and after July 1, 2012.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 456, effective the later of December 31, 2011, or the date the Attorney General interposes no objection to the reenactment of the section. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Laws of 2011, ch. 456, § 24 provides:

"SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended."

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change. The 2012 amendment reenacted the section without change.

§ 77-1-47. Appeal bonds; supersedeas bonds [Repealed effective December 31, 2013].

SOURCES: Codes, 1942, §§ 7684, 7700; Laws, 1938, chs. 139, 142; reenacted without change, Laws, 1982, ch. 389, § 24; reenacted, Laws, 1990, ch. 530, § 22; reenacted without change, Laws, 1993, ch. 616, § 19; reenacted without change, Laws, 1996, ch. 526, § 20; reenacted without change, Laws, 1998, ch. 303, § 20; reenacted without change, Laws, 2002, ch. 452, § 20; reenacted without change, Laws, 2006, ch. 386, § 20; reenacted without change, Laws, 2008, ch. 406, § 20; reenacted without change, Laws, 2011, ch. 456, § 20; reenacted without change, Laws, 2012, ch. 542, § 20, eff from and after July 1, 2012.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 456, effective the later of December 31, 2011, or the date the Attorney General interposes no objection to the reenactment of the section. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

§ 77-1-49. Annual reports of the commission [Repealed effective December 31, 2013].

SOURCES: Codes, 1892, § 4333; 1906, § 4887; Hemingway's 1917, § 7674; 1930, § 7041; 1942, § 7818; Laws, 1908, ch. 84; Laws, 1970, ch. 523, § 1; reenacted without change, Laws, 1982, ch. 389, § 25; reenacted, Laws, 1990, ch. 530, § 23; reenacted and amended, Laws, 1993, ch. 616, § 20; reenacted without change, Laws, 1996, ch. 526, § 21; reenacted without change, Laws, 1998, ch. 303, § 21; reenacted without change, Laws, 2002, ch. 452, § 21; reenacted without change, Laws, 2006, ch. 386, § 21; reenacted without change, Laws, 2008, ch. 406, § 21; reenacted without change, Laws, 2011, ch. 456, § 21; reenacted without change, Laws, 2012, ch. 542, § 21, eff from and after July 1, 2012.

Editor's Note — This section was reenacted without change by Laws of 2011, ch. 456, effective the later of December 31, 2011, or the date the Attorney General interposes no objection to the reenactment of the section. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the reenactment of this section by Chapter 456, Laws of 2011.

This section was reenacted without change by Laws of 2012, ch. 542, effective July 1, 2012. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2011 amendment reenacted the section without change.

The 2012 amendment reenacted the section without change.

§ 77-1-51. Repeal of §§ 77-1-1 through 77-1-49.

Sections 77-1-1 through 77-1-49, Mississippi Code of 1972, which create the Public Service Commission and prescribe its powers and duties, shall stand repealed as of December 31, 2013.

SOURCES: Laws, 1979, ch. 301, § 53; Laws, 1982, ch. 389, § 26; Laws, 1990, ch. 530, § 24; Laws, 1993, ch. 616, § 21; Laws, 2002, ch. 452, § 22; Laws, 2006, ch. 386, § 22; Laws, 2008, ch. 406, § 22; Laws, 2011, ch. 456, § 22; Laws, 2012, ch. 542, § 22, eff from and after July 1, 2012.

Editor's Note — Laws of 2011, ch. 456, § 24 provides:

“SECTION 24. This act shall take effect and be in force from and after December 31, 2011, if it is effectuated on or before that date under Section 5 of the Voting Rights Act of 1965, as amended and extended. If it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended after December 31, 2011, this act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.”

By letter dated July 21, 2011, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the amendment of this section by Chapter 456, Laws of 2011.

Amendment Notes — The 2011 amendment substituted “December 31, 2012” for “December 31, 2011” at the end of the paragraph.

The 2012 amendment extended the repealer provision from “December 31, 2012” to “December 31, 2013.”

§ 77-1-55. Commission authorized to hire attorneys or consultants to monitor, investigate and seek relief from existing or proposed interstate rates, charges, etc. [Repealed effective July 1, 2013].

(1) The Public Service Commission, with the aid and the assistance of the Public Utilities Staff, shall have the power to monitor, investigate, and seek relief in any appropriate federal forum from all existing or proposed interstate rates, charges, allocations and classifications, and all rules and practices in relation thereto promulgated and prescribed by or for any public utility as defined in Section 77-3-3(d)(i).

(2) The Public Service Commission, with the aid and the assistance of the Public Utilities Staff, may seek relief from any proposed or final decision, order, regulation, rule or law that has an impact on any existing or proposed interstate rate, charge, allocation or classification.

(3) For the purpose of this section, the Public Service Commission and the Executive Director of the Public Utilities Staff may each enter into professional services contracts with one or more attorneys or consultants from a competent, qualified and independent firm as may be required by the commission or the executive director. Costs associated with the professional service contracts shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) for each agency with respect to each affected utility in any twelve-month period. The consultants or counsel shall submit periodically, but no less frequently than once each calendar quarter, to the executive director or the

commission, as applicable, for approval of payment, itemized bills detailing the work performed. The executive director or the chairman of the commission, as applicable, shall requisition the applicable public utility to make the requisite payments to such consultants. The commission shall allow the utility to recover both the total costs the utility incurred under this section and the carrying charges for those costs through a rate rider established to recover the costs incurred and carrying charges incurred. Such rider shall include a true-up provision to ensure actual recovery of costs paid or otherwise incurred by the utility.

(4) This section shall stand repealed from and after July 1, 2013.

SOURCES: Laws, 2012, ch. 527, § 1, eff from and after passage (approved May 17, 2012.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error near the end of subsection (2) by inserting a comma between “charge” and “allocation.” The Joint Committee ratified the correction at its August 16, 2012, meeting.

Cross References — Public Utilities Staff, see § 77-2-1 et seq.

CHAPTER 3

Regulation of Public Utilities

Article 1.	Certificates of Public Convenience and Necessity; Rates; Service	77-3-1
Article 15.	Mississippi Telephone Solicitation Act	77-3-701
Article 17.	Caller ID Anti-spoofing Act	77-3-801

ARTICLE 1.

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY; RATES; SERVICE.

SEC.

77-3-3.

Definitions.

77-3-35.

Regulation of rates and charges generally; approval of certain contracts of utilities; regulation of provision of telecommunication services; adoption of alternative methods of regulation; Public Service Commission authorized to regulate only rates, terms and conditions of certain switched access services and single-line flat rate voice communication services; incumbent local exchange carrier to provide primary single-line flat rate voice communication service to premises of permanent residence or business within its franchised service territory if cost to requesting party does not exceed certain amount; commission to retain exclusive original jurisdiction over customer complaints for services continuing to be regulated; certain telecommunication utilities required only to file financial or service quality information required to be filed with Federal Communications Commission.

§ 77-3-3. Definitions.

As used in this chapter:

- (a) The term "corporation" includes a private or public corporation, a municipality, an association, a joint-stock association or a business trust.
- (b) The term "person" includes a natural person, a partnership of two (2) or more persons having a joint or common interest, a cooperative, nonprofit, limited dividend or mutual association, a corporation, or any other legal entity.
- (c) The term "municipality" includes any incorporated city, town or village.
- (d) The term "public utility" includes persons and corporations, or their lessees, trustees and receivers now or hereafter owning or operating in this state equipment or facilities for:
 - (i) The generation, manufacture, transmission or distribution of electricity to or for the public for compensation;
 - (ii) The transmission, sale, sale for resale, or distribution of natural, artificial, or mixed natural and artificial gas to the public for compensation by means of transportation, transmission, or distribution facilities and equipment located within this state; however, the term shall not include the production and gathering of natural gas, the sale of natural gas in or within the vicinity of the field where produced, or the distribution or sale of liquefied petroleum gas or the sale to the ultimate consumer of natural gas for use as a motor vehicle fuel;
 - (iii) The transmission, conveyance or reception of any message over wire, of writing, signs, signals, pictures and sounds of all kinds by or for the public, where such service is offered to the public for compensation, and the furnishing, or the furnishing and maintenance, of equipment or facilities to the public, for compensation, for use as a private communications system or part thereof; however, no person or corporation not otherwise a public utility within the meaning of this chapter shall be deemed such solely because of engaging in this state in the furnishing, for private use as last aforementioned, and moreover, nothing in this chapter shall be construed to apply to television stations, radio stations, community television antenna services, video services, voice over Internet protocol services ("VoIP"), any wireless services including commercial mobile services, Internet protocol ("IP") — enabled services or broadband services; and
 - (iv) The transmission, distribution, sale or resale of water to the public for compensation, or the collection, transmission, treatment or disposal of sewage, or otherwise operating a sewage disposal service, to or for the public for compensation.

The term "public utility" shall not include any person not otherwise a public utility, who furnishes the services or commodity described in this paragraph only to himself, his employees or tenants as an incident of such employee service or tenancy, if such services are not sold or resold to such tenants or employees on a metered or consumption basis other than the submetering authorized under Section 77-3-97.

A public utility's business other than of the character defined in subparagraphs (i) through (iv) of this paragraph is not subject to the provisions of this chapter.

(e) The term "rate" means and includes every compensation, charge, fare, toll, rental and classification, or the formula or method by which such may be determined, or any of them, demanded, observed, charged or collected by any public utility for any service, product or commodity described in this section, offered by it to the public, and any rules, regulations, practices or contracts relating to any such compensation, charge, fare, toll, rental or classification; however, the term "rate" shall not include charges for electrical current furnished, delivered or sold by one public utility to another for resale.

(f) The word "commission" shall refer to the Public Service Commission of the State of Mississippi, as now existing, unless otherwise indicated.

(g) The term "affiliated interest" or "affiliate" includes:

(i) Any person or corporation owning or holding, directly or indirectly, twenty-five percent (25%) or more of the voting securities of a public utility;

(ii) Any person or corporation in any chain of successive ownership of twenty-five percent (25%) or more of the voting securities of a public utility;

(iii) Any corporation of which fifteen percent (15%) or more of the voting securities is owned or controlled, directly or indirectly, by a public utility;

(iv) Any corporation twenty-five percent (25%) or more of the voting securities of which is owned or controlled, directly or indirectly, by any person or corporation that owns or controls, directly or indirectly, twenty-five percent (25%) or more of the voting securities of any public utility or by any person or corporation in any chain of successive ownership of twenty-five percent (25%) of such securities;

(v) Any person who is an officer or director of a public utility or of any corporation in any chain of successive ownership of fifteen percent (15%) or more of voting securities of a public utility; or

(vi) Any person or corporation that the commission, after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a public utility, or over which a public utility exercises such control, or that is under a common control with a public utility, such control being the possession, directly or indirectly, of the power to direct or cause the discretion of the management and policies of another, whether such power is established through ownership of voting securities or by any other direct or indirect means.

However, the term "affiliated interest" or "affiliate" shall not include a joint agency organized pursuant to Section 77-5-701 et seq. nor a member municipality thereof.

(h) The term "facilities" includes all the plant and equipment of a public utility, used or useful in furnishing public utility service, including all real

and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished or supplied for, by or in connection with its public utility business.

(i) The term "cost of service" includes operating expenses, taxes, depreciation, net revenue and operating revenue requirement at a claimed rate of return from public utility operations.

(j) The term "lead-lag study" includes an analysis to determine the amount of capital which investors in a public utility, the rates of which are subject to regulation under the provisions of this chapter, must provide to meet the day-to-day operating costs of the public utility prior to the time such costs are recovered from customers, and the measurement of (i) the lag in collecting from the customer the cost of providing service, and (ii) the lag in paying the cost of providing service by the public utility.

(k) The term "broadband services" means any service that consists of or includes a high-speed access capability to transmit at a rate that is not less than two hundred (200) kilobits per second either in the upstream or downstream direction and either:

(i) Is used to provide access to the Internet, or

(ii) Provides computer processing, information storage, information content or protocol conversion, including any service applications or information service provided over such high-speed access service.

(l) The term "video services" means video programming services without regard to delivery technology, including Internet protocol technology ("Internet Protocol television or IPTV") and video programming provided as a part of a service that enables users to access content, information, email or other services offered over the public Internet. The term "video programming" means any programming as defined in 47 USCS Section 522(20).

(m) The term "Voice over Internet Protocol services" or "VoIP services" means any service that: (i) enables real-time, two-way voice communications that originate from or terminate to the user's location in Internet protocol or any successor protocol; (ii) uses a broadband connection from the user's location; and (iii) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(n) The term "commercial mobile services" means any services as defined in 47 USCS Section 332(d).

(o) The term "Internet protocol-enabled services" or "IP-enabled services" means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communications is voice, data or video.

Nothing contained in this paragraph shall apply to retail services that are tariffed by the commission.

SOURCES: Codes, 1942, § 7716-01; Laws, 1956, ch. 372, § 1; Laws, 1968, ch. 502, § 1; Laws, 1983, ch. 467, § 4; Laws, 1988, ch. 310, § 1; Laws, 1990, ch. 530, § 41; Laws, 1993, ch. 304, § 1; Laws, 2002, ch. 513, § 2; Laws, 2005, ch. 305, § 1; Laws, 2012, ch. 447, § 1, eff from and after July 1, 2012.

Amendment Notes — The 2012 amendment in (d)(iii), deleted “or by radio, or otherwise” preceding “of writing, signs, signals, pictures” near the beginning of the paragraph, and inserted language beginning “video services, voice over Internet protocol services” and ending “Internet protocol (“IP”) - enabled services” at the end of the paragraph; and added (l) through (o).

JUDICIAL DECISIONS

2. Rate-making, generally.

Mississippi Public Service Commission (PSC) properly denied a telecommunications company's requested rate increase for telephone services on the ground that the company failed to provide evidence that the rate increase was just and reasonable pursuant to Miss. Code Ann. § 77-3-33(1) because the PSC's interpretation of Miss. Code Ann. § 77-3-35(4) was consistent with the plain language of

the statute, and the PSC retained full regulatory authority over switched access service and single-line flat rate voice communication service; if a “retail rate” was somehow different from a tariff “rate,” as the company suggested, it was a distinction without a difference. Miss. Code Ann. § 77-3-3(e) (Rev. 2000) included all forms of rates within its definition. *Bellsouth Telcomms. v. Miss. PSC*, 18 So. 3d 199 (Miss. 2009).

§ 77-3-9. Attorney for public service commission.

Joint Legislative Committee Note — Joint Legislative Committee Note- Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the second sentence. The word “who” was deleted preceding “shall possess considerable knowledge.” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

§ 77-3-11. Certificate of public convenience and necessity required; exceptions; complaints prompting hearing as to adequacy of service.

JUDICIAL DECISIONS

1. In general.

Mississippi Public Service Commission did not err by failing to institute adequacy of service proceedings against a water, sewer, and fire district because a resident did not allege any inadequacy of service in his complaint to the Commission, and none of the other petitioners actually

joined in the resident's complaint to the Commission. *Green v. Cleary Water, Sewer & Fire Dist.*, 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (U.S. 2010).

§ 77-3-17. Operation of public utility following expiration of municipal franchise; municipal acquisition of utility.

Joint Legislative Committee Note — Joint Legislative Committee Note- Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected typographical errors in the first paragraph, by substituting “subparagraphs (i) and (ii) of paragraph (d)” for “subparagraphs (1) and (2) of paragraph (d)” and “subparagraph (iii) of paragraph (d)” for “subparagraph (3) of paragraph (d).” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

§ 77-3-19. Applicant for certificate must obtain a municipal franchise.

Joint Legislative Committee Note — Joint Legislative Committee Note- Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the last paragraph, by substituting “subparagraph (iii) of paragraph (d)” for “subparagraph (3) of paragraph (d).” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

§ 77-3-21. Hearing on adequacy of service afforded by certificate holder.**JUDICIAL DECISIONS****1. In general.**

Mississippi Public Service Commission did not err by failing to institute adequacy of service proceedings against a water, sewer, and fire district because a resident did not allege any inadequacy of service in his complaint to the Commission, and none of the other petitioners actually

joined in the resident's complaint to the Commission. *Green v. Cleary Water, Sewer & Fire Dist.*, 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (U.S. 2010).

§ 77-3-33. Rates, classifications and service of utilities.**JUDICIAL DECISIONS****1. Rate-making, generally.**

Mississippi Public Service Commission (PSC) properly denied a telecommunications company's requested rate increase for telephone services on the ground that the company failed to provide evidence that the rate increase was just and reasonable pursuant to Miss. Code Ann. § 77-3-33(1) because the PSC's interpretation of Miss. Code Ann. § 77-3-35(4) was consistent with the plain language of

the statute, and the PSC retained full regulatory authority over switched access service and single-line flat rate voice communication service; the PSC did not improperly utilize a “rate of return” methodology to determine the company's requested rate increase because it did not base its conclusion upon the lack of a cost of service study but merely listed several types of possible evidence the company could have submitted to support its rate

increase request. Bellsouth Telcomms. v. Miss. PSC, 18 So. 3d 199 (Miss. 2009).

§ 77-3-35. Regulation of rates and charges generally; approval of certain contracts of utilities; regulation of provision of telecommunication services; adoption of alternative methods of regulation; Public Service Commission authorized to regulate only rates, terms and conditions of certain switched access services and single-line flat rate voice communication services; incumbent local exchange carrier to provide primary single-line flat rate voice communication service to premises of permanent residence or business within its franchised service territory if cost to requesting party does not exceed certain amount; commission to retain exclusive original jurisdiction over customer complaints for services continuing to be regulated; certain telecommunication utilities required only to file financial or service quality information required to be filed with Federal Communications Commission.

(1) Subject to the provisions of subsections (2) and (4) of this section, under such reasonable rules and regulations as the commission may prescribe, every public utility, as to the rates which are subject to regulation under the provisions of this article, shall file with the commission, within such time and in such form as the commission may designate, schedules showing such rates and charges established by it and collected and enforced, or to be collected or enforced within the jurisdiction of the commission. The utility shall keep copies of such schedules open to public inspection under such reasonable rules and regulations as the commission may prescribe.

No such public utility shall directly or indirectly, by any device whatsoever, or in anywise, charge, demand, collect or receive from any person or corporation for any service rendered or to be rendered by such public utility a greater or less compensation than that prescribed in the schedules of such public utility applicable thereto then filed in the manner provided in this section, and no person or corporation shall receive or accept any service from any such public utility for a compensation greater or less than prescribed in such schedules.

Utilities selling commodities or rendering any service to cooperatives, municipalities or other nonprofit organizations, shall, at the order of the commission, file schedules of such rates and charges for information purposes only.

The commission may provide, by rules and regulations to be adopted by it, the following:

(a) That utilities may contract with a manufacturer that is not a utility for furnishing the services or commodities described in Section 77-3-3(d) (i), (ii) and (iii) for use in manufacturing;

(b) That utilities described in Section 77-3-3(d)(i) also may contract with a customer that has a minimum yearly electric consumption of two thousand five hundred (2,500) megawatt hours per year or greater for furnishing the services or commodities described in Section 77-3-3(d)(i); and

(c) That utilities described in Section 77-3-3(d)(ii) also may contract with a customer that has a minimum yearly consumption of eight million five hundred thousand (8,500,000) cubic feet of gas per year or greater for furnishing the services or commodities described in Section 77-3-3(d)(ii).

These contracts may be entered into without reference to the rates or other conditions which may be established or fixed pursuant to other provisions of this article. Such regulations shall provide that before becoming effective any such contract shall be approved by the commission.

(2)(a) The Legislature recognizes that the maintenance of universal telephone service in Mississippi is a continuing goal of the commission and that the public interest requires that the commission be authorized and encouraged to formulate and adopt rules and policies that will permit the commission, in the exercise of its expertise, to regulate and control the provision of telecommunications services to the public in a changing environment where competition and innovation are becoming more commonplace, giving due regard to the interests of consumers, the public, the providers of telecommunications services and the continued availability of good telecommunications service. The commission is authorized to issue more than one (1) competing certificate of public convenience and necessity to provide local exchange telephone service in the same geographical area; provided, that the issuing of any such additional certificates shall not otherwise affect any certificate of public convenience and necessity heretofore issued to any provider of such services.

The commission shall adopt all rules and regulations necessary for implementing this subsection (2)(a).

The commission may apply standards adopted by the Federal Communications Commission that are generally applicable to companies that are designated and operate as eligible telecommunications carriers, pursuant to 47 USCS Section 214(e). The commission may exercise its authority to ensure that these carriers, including commercial mobile radio service providers that receive federal eligible telecommunications status, comply with those standards, only to the extent permitted by and consistent with applicable federal laws and regulations.

The commission retains the authority to issue orders to implement its rules, regulations and the provisions of this chapter, including the authority to grant and modify, impose conditions upon, or revoke a certificate.

(b) The commission may, on its own motion or at the request of any interested party, enter an order, after notice and opportunity for hearing, determining and directing that, in the provision of a service or facility by a utility of the type defined in Section 77-3-3(d)(iii), competition or other market forces adequately protect the public interest, or that a service or facility offered by the utility is discretionary, and that the public interest

requires that the utility's rates and charges for such service or facility shall not thereafter be subject to regulation by the commission.

(c) In making its determination whether the rates and charges for a service or facility shall not be subject to regulation by the commission, the commission may consider individually or collectively:

(i) Whether the exercise of commission jurisdiction produces tangible benefits to the utility's customers that exceed those available by reliance on market forces or other factors;

(ii) Whether technological changes, competitive forces, discretionary nature of the service or facility, or regulation by other state and federal regulatory bodies render the exercise of jurisdiction by the Mississippi commission unnecessary or wasteful;

(iii) Whether the exercise of commission jurisdiction inhibits a regulated utility from competing with unregulated providers of functionally similar telecommunications services or equipment;

(iv) Whether the existence of competition tends to prevent abuses, unjust discrimination and extortion in the charges of telecommunications utilities for the service or facility in question;

(v) The availability of the service or facility from other persons and corporations; or

(vi) Any other factors that the commission considers relevant to the public interest.

In making the determination as above set forth, the commission may specify the period of time during which the utility's rates and charges for the service or facility shall not thereafter be subject to regulation. Likewise, after notice and opportunity for hearing, the commission may revoke a determination and direction made under this section, when the commission finds that commission regulation of the utility's rates and charges for the service or facility in question is necessary to protect the public interest.

(3)(a) The commission is authorized to consider and adopt alternative methods of regulation proposed by a utility of the type defined in Section 77-3-3(d)(i), (ii) or (iii) to establish rates for the services furnished by such utility that are fair, just and reasonable to the public and that provide fair, just and reasonable compensation to the utility for such services.

(b) For purposes of this subsection, the phrase "alternative methods of regulation" means the regulation of utility rates and charges by methods other than the rate base or rate of return method of regulation set forth in other provisions of this article.

(4)(a) Notwithstanding any other provisions of this article or any other statute to the contrary, and consistent with the provisions herein, for those public utilities of the type defined in Section 77-3-3(d)(iii) that are subject to the competitive requirements set forth in 47 USCS Section 251 or those public utilities that have waived a suspension granted by the commission of the requirements of 47 USCS Section 251(b) and (c) as authorized by 47 USCS Section 251(f)(2), the Legislature has determined that, in the provision of all services, other than switched access service, competition or other

market forces adequately protect the public interest. Therefore, subject to paragraph (d) of this subsection, the commission no longer has jurisdiction over the services, other than the provision of intrastate switched access service, provided by such public utilities.

(b) For those public utilities of the type defined in Section 77-3-3(d)(iii) that have been granted a suspension by the commission of the requirements of 47 USCS Section 251(b) and (c) as authorized by 47 USCS Section 251(f)(2), the commission, at the request of such public utility, shall enter an order, after notice and opportunity for hearing, determining that such public utility's provision of service will be subject to the same level of regulation as provided in paragraph (a) of this subsection, but only after the commission determines that such public utility has satisfied one (1) of the following conditions:

- (i) Has executed interconnection agreements which have been approved by the commission to the extent required under law with two (2) or more local exchange carriers unaffiliated with such public utility;
- (ii) Offers for resale at wholesale rates, pursuant to 47 USCS Section 251(c)(4)(A) and (B), such public utility's retail telecommunications services provided to subscribers who are not telecommunications carriers;
- (iii) At least two (2) competitive telecommunications providers unaffiliated with such requesting public utility are offering service to such public utility's subscribers; or
- (iv) Has experienced a material reduction in access lines or minutes of use in two (2) consecutive years.

A waiver of suspension under paragraph (a) of this subsection shall be effective upon written notification to the commission. The initial rate utilized by such public utility shall be the rate for such service in effect at the time of such waiver under this section. The commission, upon request of the public utility, may return such public utility to a form of regulation permitted under this section.

(c) Subject to paragraph (d) of this subsection, a public utility of the type defined in Section 77-3-3(d)(iii) which is regulated under the provisions of paragraph (a) of this subsection shall not be subject to any rule, regulation or order promulgated by the commission with regard to retail services. The provisions of Section 77-3-23 shall not apply to such public utility regulated under the provisions of paragraph (a) of this subsection.

(d) Nothing in this chapter shall be construed to affect the duties of an incumbent local exchange carrier arising under 47 USCS Sections 251 and 252 and the Federal Communications Commission's regulations implementing these sections, or the commission's authority to approve, arbitrate and enforce interconnection agreements and to resolve disputes pursuant to 47 USCS Sections 251 and 252 and the Federal Communications Commission's regulations implementing these sections or any other applicable federal law or regulation. The commission shall exercise its jurisdiction in its role as a dispute resolution forum to hear complaints between certificated carriers, including complaints to prohibit anti-competitive practices and with respect

to enforcement or modification of any wholesale self-effectuating enforcement mechanism plan in place as of July 1, 2011, and to issue orders to resolve such complaints, provided that such actions are consistent with federal telecommunications law. The commission shall interpret and apply federal, not state, substantive law. The commission shall adjudicate and enforce such claims in accordance with state procedural law and rules. No claim shall be brought to the commission as to which the FCC has exclusive jurisdiction. All complaints brought between carriers pursuant to this section shall be resolved by final order of the commission within one hundred eighty (180) days of the filing of the complaint.

(e) The commission shall retain exclusive original jurisdiction over customer complaints for those services that continue to be regulated. For services no longer regulated, the commission shall have exclusive original jurisdiction to interpret and enforce the terms and conditions of customer service agreements for telecommunications services, but it shall not alter, set aside or refuse to enforce the rates, terms and conditions thereof, either directly or indirectly. No other party shall be allowed to participate in any such complaint proceeding, except for the customer, legal counsel or other representative of the customer, or the public utility involved.

(f) A public utility of the type defined in Section 77-3-3(d)(iii) which is regulated under the provisions of paragraph (a) of this subsection shall not be required to file financial, service quality or other information with the commission. The calculation of the public utility regulatory tax established in Section 77-3-87 shall be based upon ninety thousandths of one percent (90/1000 of 1%) per year of the gross revenues from the intrastate operations of such public utility which is subject to regulation under the provision of paragraph (a) of this subsection. In addition, such public utility shall only be required to adhere to billing for retail telecommunications services in compliance with the federal truth in billing regulations prescribed by the Federal Communications Commission.

(g)(i) In order to transition to the changes effectuated by paragraph (a) of this subsection, the rates, terms and conditions for products and services no longer subject to regulation by the commission which were in effect with a specific term immediately prior to July 1, 2006, shall remain in effect for the duration of the specific term as to customers who subscribed to such products or services prior to July 1, 2006. If no term applied to such products or services at the time such customer subscribed to such products or services, then the rates, terms and conditions governing such products or services shall remain in effect until a written customer service agreement becomes effective as described in subparagraph (ii) of this paragraph (g).

(ii) Except as provided in subparagraph (i) of this paragraph (g), the service provider shall offer existing and new customers a written customer service agreement, which in the case of new customers shall be delivered no later than thirty (30) days after the initiation of service. The customer service agreement shall include a provision advising the customer that he has thirty (30) days from receipt in which to elect:

1. To terminate service with the service provider by contacting such service provider within the thirty-day time period, in which case the customer shall have the right to pay off the account in the same manner and under the same rates, terms and conditions as set forth in the written customer service agreement provided to the customer, which written customer service agreement shall relate back in its entirety to the date of a new customer's request for service or the date the agreement was sent to an existing customer, as applicable, and shall be in effect until termination through pay off; or

2. To use the services of the service provider or to otherwise continue the account with the service provider after the thirty-day time period has elapsed, either of which shall constitute the customer's assent to all the rates, terms and conditions of the written customer service agreement. The customer service agreement shall be deemed received three (3) business days after deposit in the United States mail, first-class delivery.

(iii) If any service provider desires to modify in any respect any rates, terms or conditions of a customer service agreement, it shall provide at least thirty (30) days' prior written notice of the modification and the proposed effective date to the customer. The customer service agreement shall include a provision advising the customer that he has the option:

1. To terminate service with the service provider by contacting such service provider prior to the effective date, in which case the customer shall have the right to pay off the account in the same manner and under the same rates, terms and conditions as then in effect; or

2. To use the services of the service provider or to otherwise continue the account with the service provider on or after the effective date, either of which shall constitute the customer's assent to the modified written customer service agreement. The customer service agreement shall be deemed received three (3) business days after deposit in the United States mail, first-class delivery.

(h) Nothing herein shall change the obligation of those public utilities described in Section 77-3-3(d)(iii) to obtain a certificate of public convenience and necessity pursuant to this chapter.

SOURCES: Codes, 1942, § 7716-09; Laws, 1956, ch. 372, § 9; Laws, 1988, ch. 338; Laws, 1994, ch. 315, § 1; Laws, 1995, ch. 348, § 1; Laws, 1996, ch. 304, § 1; Laws, 2006, ch. 313, § 1; Laws, 2012, ch. 447, § 2, eff from and after July 1, 2012.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected typographical errors in the last paragraph in (4)(b), by substituting "may return such public utility to a form of regulation permitted under this section" for "may return such public utility to return to a form of regulation permitted under Section 77-3-35." The Joint Committee ratified the correction at its July 22, 2010, meeting.

Amendment Notes — The 2012 amendment added the next-to-last paragraph of (2)(a); in (4)(a), deleted "and single-line flat rate voice communication service" preceding "competition or other market forces" in the first sentence, rewrote the second sentence,

and deleted the former last sentence which read: "The retail rates for such single-line flat rate voice communication service beginning January 1, 2007, and every succeeding January 1 may only be increased during the calendar year by an amount that does not exceed the rates for such service on January 1 of the previous year, plus the increase in the Consumer Price Index for all Urban Consumers as reported by the United States Department of Labor, Bureau of Labor Statistics"; and rewrote (4)(c), (d), and (f).

JUDICIAL DECISIONS

2. Rate-making, generally.
3. Regulatory authority.

2. Rate-making, generally.

Mississippi Public Service Commission (PSC) properly denied a telecommunications company's requested rate increase for telephone services on the ground that the company failed to provide evidence that the rate increase was just and reasonable pursuant to Miss. Code Ann. § 77-3-33(1) because the PSC's interpretation of Miss. Code Ann. § 77-3-35(4) was consistent with the plain language of the statute, and the PSC retained full regulatory authority over switched access service and single-line flat rate voice communication service; the PSC did not improperly utilize a "rate of return" methodology to determine the company's requested rate increase because it did not base its conclusion upon the lack of a cost of service study but merely listed several types of possible evidence the company

could have submitted to support its rate increase request. *Bellsouth Telcomms. v. Miss. PSC*, 18 So. 3d 199 (Miss. 2009).

3. Regulatory authority.

By the very terms of Miss. Code Ann. § 77-3-35(4), the statute's revocation of regulatory authority does not apply to switched access service and single-line flat rate voice communication service because the statute specifically reserves to the Mississippi Public Service Commission (PSC) regulatory authority over those two types of service; nothing in the statute, either implicitly or explicitly, limits the PSC's regulatory function to mere ministerial approval or disapproval after "doing the math," and the cap on the limit of annual increases reads as exactly that: a cap on the amount retail rates for the two particular services may be increased in a given year. *Bellsouth Telcomms. v. Miss. PSC*, 18 So. 3d 199 (Miss. 2009).

§ 77-3-39. Hearing on rate change; suspension of proposed rates.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in subsection (4). The word "and" was inserted before "(c)." The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

§ 77-3-46. Management reviews of public utility companies.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the first paragraph, by substituting "which has in excess of twenty-five thousand (25,000) customers" for "which has in excess a twenty-five thousand (25,000) customers." The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

§ 77-3-47. Hearings by commission.

JUDICIAL DECISIONS

1. In general.
2. Notice.

1. In general.

Mississippi Public Service Commission did not commit reversible error in denying a resident a hearing when it dismissed his complaint challenging the Commission's decision to grant a Supplemental Certificate of Public Convenience and Necessity (CCN) to a water, sewer, and fire district because the resident's rights were not infringed by the lack of a hearing, and the public interest would not have been served by granting the resident a hearing, which would have been futile; Miss. Code R. § 26-000-001 and Miss. Code Ann. § 77-3-47 authorize the Commission to dismiss a complaint without a hearing, and a hearing is not necessary in the public interest or for the protection of substantial rights. *Green v. Cleary Water, Sewer & Fire Dist.*, 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (U.S. 2010).

2. Notice.

Supreme court had jurisdiction over the orders of the Mississippi Public Service

Commission denying a resident's motion to amend his complaint challenging the grant of a Supplemental Certificate of Public Convenience and Necessity (CCN) to a water, sewer and fire district and dismissing the complaint but not over the grant of the supplemental CCN because the resident attempted to appeal the supplemental CCN decision by way of appealing the Commission's orders, and the appeal was untimely since it was filed more than four years after the order granting the supplemental CCN; the Commission filed a timely notice in a newspaper that a decentralized system would be implemented, and the resident was notified of the planned implementation when the district adopted an ordinance, published notice concerning the adoption of the ordinance, and then passed the ordinance after a public hearing at which no one expressed opposition. *Green v. Cleary Water, Sewer & Fire Dist.*, 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (U.S. 2010).

§ 77-3-67. Appeals to chancery court.

JUDICIAL DECISIONS

1. In general.
2. Appeal timely.
3. Standing.

1. In general.

Supreme court had jurisdiction over the orders of the Mississippi Public Service Commission denying a resident's motion to amend his complaint challenging the grant of a Supplemental Certificate of Public Convenience and Necessity (CCN) to a water, sewer and fire district and dismissing the complaint but not over the grant of the supplemental CCN because the resident attempted to appeal the supplemental CCN decision by way of appeal-

ing the Commission's orders, and the appeal was untimely since it was filed more than four years after the order granting the supplemental CCN; the Commission filed a timely notice in a newspaper that a decentralized system would be implemented, and the resident was notified of the planned implementation when the district adopted an ordinance, published notice concerning the adoption of the ordinance, and then passed the ordinance after a public hearing at which no one expressed opposition. *Green v. Cleary Water, Sewer & Fire Dist.*, 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010

U.S. LEXIS 2154, 78 U.S.L.W. 3498 (U.S. 2010).

2. Appeal timely.

Chancery court erred in finding that it was without jurisdiction to hear the resident's appeal of the denial of his motion to amend his complaint challenging the Mississippi Public Service Commission's grant of a Supplemental Certificate of Public Convenience and Necessity to a water, sewer, and fire district because the resident appealed within the thirty-day statutory deadline of the final order dismissing his complaint, Miss. Code Ann. § 77-3-67(1); the resident was not required to appeal the denial of his motion to amend within thirty days of the order because the thirty-day appeal deadline

applied only to the final order. Green v. Cleary Water, Sewer & Fire Dist., 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (U.S. 2010).

3. Standing.

Because a resident was not a party to the Mississippi Public Service Commission's decision to grant a water, sewer, and fire district a supplemental Supplemental Certificate of Public Convenience and Necessity, he could not appeal from that decision. Green v. Cleary Water, Sewer & Fire Dist., 17 So. 3d 559 (Miss. 2009), writ of certiorari denied by 130 S. Ct. 1691, 176 L. Ed. 2d 181, 2010 U.S. LEXIS 2154, 78 U.S.L.W. 3498 (U.S. 2010).

ARTICLE 15.

MISSISSIPPI TELEPHONE SOLICITATION ACT.

SEC.

77-3-737. Repeal of §§ 77-3-701 through 77-3-737.

§ 77-3-701. Short title [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 1; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 1; reenacted without change, Laws, 2006, ch. 367, § 1; reenacted without change, Laws, 2010, ch. 324, § 1, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-703. Legislative findings [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 2; reenacted and amended, Laws, 2005, 2nd Ex Sess, ch. 62, § 2; reenacted without change, Laws, 2006, ch. 367, § 2; reenacted without change, Laws, 2010, ch. 324, § 2, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-705. Definitions [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 3; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 3; reenacted without change, Laws, 2006, ch. 367, § 3; reenacted without change, Laws, 2010, ch. 324, § 3, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-707. Use of the “no-calls” database by telephone solicitors mandatory [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 4; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 4; reenacted without change, Laws, 2006, ch. 367, § 4; reenacted without change, Laws, 2010, ch. 324, § 4, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-709. Commission's discretion to exempt some telephone solicitors from purchase and use of no-calls database [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 5; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 5; reenacted without change, Laws, 2006, ch. 367, § 5; reenacted without change, Laws, 2010, ch. 324, § 5, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-711. Exempt categories [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 6; reenacted and amended, Laws, 2005, 2nd Ex Sess, ch. 62, § 6; reenacted without change, Laws, 2006, ch. 367, § 6; reenacted without change, Laws, 2010, ch. 324, § 6, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears

in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-713. Registration of telephone solicitors mandatory [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 7; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 7; reenacted without change, Laws, 2006, ch. 367, § 7; reenacted without change, Laws, 2010, ch. 324, § 7, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-715. Regulatory powers of Public Service Commission [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 8; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 8; reenacted without change, Laws, 2006, ch. 367, § 8; reenacted without change, Laws, 2010, ch. 324, § 8, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-717. Inclusion in no-calls database of Mississippi part of any Federal Trade Commission national database [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 9; reenacted and amended, Laws, 2005, 2nd Ex Sess, ch. 62, § 9; reenacted without change, Laws, 2006, ch. 367, § 9; reenacted without change, Laws, 2010, ch. 324, § 9, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-719. Nondisclosure of database [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 10; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 10; reenacted without change, Laws, 2006, ch. 367, § 10; reenacted without change, Laws, 2010, ch. 324, § 10, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-721. Fees [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 11; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 11; reenacted without change, Laws, 2006, ch. 367, § 11; reenacted without change, Laws, 2010, ch. 324, § 11, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-723. Rules for authorized calls [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 12; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 12; reenacted without change, Laws, 2006, ch. 367, § 12; reenacted without change, Laws, 2010, ch. 324, § 12, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-725. Violations; hearings; penalties [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 13; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 13; reenacted without change, Laws, 2006, ch. 367, § 13; reenacted without change, Laws, 2010, ch. 324, § 13, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears

in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-727. Consumer complaints [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 14; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 14; reenacted without change, Laws, 2006, ch. 367, § 14; reenacted without change, Laws, 2010, ch. 324, § 14, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-729. Defenses [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 15; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 15; reenacted without change, Laws, 2006, ch. 367, § 15; reenacted without change, Laws, 2010, ch. 324, § 15, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-731. Commission granted personal jurisdiction over resident and nonresident telephone solicitors [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 16; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 16; reenacted without change, Laws, 2006, ch. 367, § 16; reenacted without change, Laws, 2010, ch. 324, § 16, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-733. Right of appeal [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 17; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 17; reenacted without change, Laws, 2006, ch. 367, § 17; reenacted without change, Laws, 2010, ch. 324, § 17, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-735. Service providers certificated by commission not liable for violations of others [Repealed effective July 1, 2013].

SOURCES: Laws, 2003, ch. 478, § 18; reenacted without change, Laws, 2005, 2nd Ex Sess, ch. 62, § 18; reenacted without change, Laws, 2006, ch. 367, § 18; reenacted without change, Laws, 2010, ch. 324, § 18, eff from and after July 1, 2010.

Editor's Note — This section was reenacted without change by Laws of 2010, ch. 324, effective from and after July 1, 2010. Since the language of the section as it appears in the main volume is unaffected by the reenactment, the section text is not reprinted in this supplement.

Amendment Notes — The 2010 amendment reenacted the section without change.

§ 77-3-737. Repeal of §§ 77-3-701 through 77-3-737.

Sections 77-3-701 through 77-3-737 shall stand repealed from and after July 1, 2013.

SOURCES: Laws, 2003, ch. 478, § 19; Laws, 2005, 2nd Ex Sess, ch. 62, § 19; reenacted without change, Laws, 2006, ch. 367, § 19; Laws, 2010, ch. 324, § 19, eff from and after July 1, 2010.

Amendment Notes — The 2010 amendment substituted "July 1, 2013" for "July 1, 2010."

ARTICLE 17.

CALLER ID ANTI-SPOOFING ACT.

SEC.	
77-3-801.	Short title.
77-3-803.	Definitions.
77-3-805.	Prohibition against entering false information into telephone caller identification system or placing call knowing false information was entered into telephone caller identification system.
77-3-807.	Exceptions.
77-3-809.	Penalties.

§ 77-3-801. Short title.

This article may be cited as the "Caller ID Anti-Spoofing Act."

SOURCES: Laws, 2010, ch. 326, § 1, eff from and after July 1, 2010.

§ 77-3-803. Definitions.

As used in this article:

- (a) "Call" means any type of telephone call made using a public switched telephone network, wireless cellular telephone service, or Voice-Over-Internet Protocol (VOIP) service that has the capability of accessing users on the public switched telephone network or a successor network.
- (b) "Caller" means a person who places a call, whether by telephone, over a telephone line, or on a computer.
- (c) "Enter" means to input data by whatever means into a computer or telephone system.
- (d) "False information" means data that misrepresents the identity of the caller to the recipient of a call or to the network itself; however, when a person making an authorized call on behalf of another person inserts the name, telephone number or name and telephone number of the person on whose behalf the call is being made, such information shall not be deemed false information.
- (e) "Telephone caller identification system" means a listing of a caller's name, telephone number, or name and telephone number that is shown to a recipient of a call when it is received.

SOURCES: Laws, 2010, ch. 326, § 2, eff from and after July 1, 2010.

§ 77-3-805. Prohibition against entering false information into telephone caller identification system or placing call knowing false information was entered into telephone caller identification system.

(1) A person may not enter or cause to be entered false information into a telephone caller identification system with the intent to deceive, defraud or mislead the recipient of a call.

(2) A person may not place a call knowing that false information was entered into the telephone caller identification system with the intent to deceive, defraud or mislead the recipient of the call.

SOURCES: Laws, 2010, ch. 326, § 3, eff from and after July 1, 2010.

§ 77-3-807. Exceptions.

This article does not apply to:

- (a) The blocking of caller identification information.
- (b) Any law enforcement agency of the federal, state, county or municipal government.
- (c) Any intelligence or security agency of the federal government.
- (d) A telecommunications, broadband or voice-over-Internet service provider that is acting solely as an intermediary for the transmission of telephone service between the caller and the recipient.

SOURCES: Laws, 2010, ch. 326, § 4, eff from and after July 1, 2010.

§ 77-3-809. Penalties.

(1) Any person who violates this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00) or shall be imprisoned in the county jail not exceeding one (1) year, or both.

(2) Any violation of this article constitutes an unlawful trade practice under Section 75-24-5 and, in addition to any remedies or penalties set forth in this article, shall be subject to any remedies or penalties available for a violation of that statute.

SOURCES: Laws, 2010, ch. 326, § 5, eff from and after July 1, 2010.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

CHAPTER 5

Electric Power

ARTICLE 1.

MISSISSIPPI RURAL ELECTRIFICATION AUTHORITY.

§ 77-5-23. Grant of specific powers to authority.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (l), by substituting “Chapter 27, Title 11, of the Mississippi Code of 1972” for “Chapter 33, Title 11, of the Mississippi Code of 1972.” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

ARTICLE 9.

LOCAL GOVERNMENTAL POWER DEVELOPMENT UNDER LAWS OF 1936.

§ 77-5-441. Exercise of power of eminent domain by municipality.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error by substituting “Chapter 27, Title 11, of the Mississippi Code of 1972” for “Chapter 33, Title 11, of the Mississippi Code of 1972.” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

CHAPTER 9

Railroads and Other Common Carriers

Article 3.	Railroads and Railroad Corporations	77-9-101
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ARTICLE 3.

RAILROADS AND RAILROAD CORPORATIONS.

Safety	77-9-221
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SAFETY

SEC.	
77-9-250.	Operation Lifesaver Program; purpose; Operation Lifesaver Fund created; sources of funds.

§ 77-9-249. Obedience to signal indicating approach of train; penalties.

Cross References — Imposition of state assessment in addition to all other state assessments due under § 99-19-73 and all court imposed fines or other penalties for any violation of this section, see § 99-19-73.

§ 77-9-250. Operation Lifesaver Program; purpose; Operation Lifesaver Fund created; sources of funds.

(1) There is created within the Department of Transportation the Operation Lifesaver Program. The purpose of the program is to increase safety of and prevent loss of life and property at railroad crossings by increasing compliance, on the part of the railroads and the public, with the provisions of Section 77-9-249.

(2) There is created in the State Treasury a special fund to be known as the Operation Lifesaver Fund. The purpose of the fund shall be to provide funding for the Operation Lifesaver Program. Monies from the funds derived from assessments under Section 99-19-73 shall be distributed by the State Treasurer upon warrants issued by the Mississippi Department of Transportation. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

- (a) Monies appropriated by the Legislature for the purposes of funding Operation Lifesaver;
- (b) The interest accruing to the fund;
- (c) Monies received under the provisions of Section 99-19-73;
- (d) Monies received from the federal government;
- (e) Donations; and
- (f) Monies received from such other sources as may be provided by or allowable under law.

SOURCES: Laws, 2010, ch. 495, § 3, eff from and after July 1, 2010.

CHAPTER 11

Gas Pipelines and Distribution Systems

ARTICLE 1.

ENFORCEMENT OF NATURAL GAS PIPELINE SAFETY STANDARDS.

§ 77-11-3. Civil penalties.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (1), by substituting “subparagraph (ii) of paragraph (d)” for “subparagraph (2) of paragraph (d).” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

ARTICLE 7.

INTRASTATE GAS PIPELINES.

§ 77-11-305. Definitions.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (e) by substituting “Section 77-3-3(d)(ii)” for “Section 77-3-3(d)(2).” The Joint Committee ratified the correction at its July 22, 2010, meeting. Since the language of the section as it appears in the main volume is correct, it is not set out in the supplement.

CHAPTER 13

Regulation of Excavations Near Underground Utility Facilities

SEC.	
77-13-3.	Definitions.
77-13-9.	Marking location of underground facilities; timeliness.
77-13-23.	Operator waives right to recover damages to operator's underground facilities under certain circumstances; exemption.

§ 77-13-3. Definitions.

The words defined in this section shall have the following meanings when found in this chapter:

(a) “Excavate or excavation” shall mean any operation in which earth, rock or other material or mass of material on or below the ground is moved or otherwise displaced by any means, except: (i) the tilling of the soil less than twenty-four (24) inches in depth for agricultural purposes; or (ii) an operation in which earth, rock or other material or mass of material on or below the ground is moved or otherwise displaced to a depth of less than

twelve (12) inches on private property by the property owner without the use of mechanical excavating equipment; or (iii) an operation in which earth, rock or other material or mass of material on or below the ground is moved or otherwise displaced without the use of mechanical excavating equipment to a depth of less than twelve (12) inches on private property by an excavator who is not the property owner, except when such excavation is in a clearly marked underground facility right-of-way. The term "excavate" shall include, but not be limited to, the operations of demolition, blasting, grading, land leveling, trenching, digging, ditching, drilling, augering, tunneling, scraping, cable or pipe plowing, driving, jacking, wrecking, razing, rending, moving or removing any structure or other material or mass of material on or below the ground.

(b) "Utility" shall mean any person who supplies, distributes or transports by means of underground utility lines or underground facilities any of the following materials or services: gas, mixture of gases, petroleum, petroleum products or hazardous, toxic, flammable or corrosive liquids, electricity, telecommunications (including fiber optics), sewage, drainage, water, steam or other substances.

(c) "Underground utility lines" shall mean underground or buried cable, conduit pipes and related facilities for transportation and delivery of electricity, telecommunications (including fiber optics), water, sewage, gas, mixtures of gases, petroleum, petroleum products or hazardous, flammable, toxic or corrosive liquids.

(d) "Underground facility" shall mean any underground utility lines and other items which shall be buried or placed below ground or submerged for use in connection with underground utility lines and including, but not be limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, vaults, attachments and those portions of poles below the ground.

(e) "Person" shall mean any individual, firm, partnership, association, trustee, receiver, assignee, corporation, entity, limited liability company, utility, joint venture, municipality, state governmental unit, subdivision or instrumentality of the state, or any legal representative thereof.

(f) "Damage" shall mean the substantial weakening of structural or lateral support of underground utility lines and underground facilities, penetration or destruction of any protective coating, housing or other protective devices of an underground utility line or underground facility, and the partial or complete severance of any underground utility line or underground facility, but does not include any operator's abandoned facility.

(g) "Operator" shall mean any person who owns or operates a utility. However, the term "operator" shall not include any railroad or the Mississippi Department of Transportation.

(h) "Working day" shall mean a twenty-four-hour period commencing from the time of receipt by Mississippi 811, Inc., of the notification in accordance with this chapter, excluding Saturdays, Sundays and legal holidays.

(i) "Mechanical excavating equipment" shall mean all equipment powered by any motor, engine, or hydraulic or pneumatic device used for

excavating and shall include, but not be limited to, trenchers, bulldozers, backhoes, power shovels, scrapers, draglines, clam shells, augers, drills, cable and pipe plows and other plowing-in or pulling-in equipment.

(j) "Excavator" shall mean any person who engages directly in excavation.

(k) "Mark" shall mean the use of stakes, paint or other clearly identifiable materials to show the field location of underground facilities in accordance with the current color code standard of the American Public Works Association, or the uncovering or exposing of underground facilities so that the excavator may readily see the location of same, or the pointing out to the excavator of certain aboveground facilities such as, but not limited to, manhole covers, valve boxes and pipe and cable risers, which indicate the location of underground facilities.

(l) "Mississippi One-Call System, Inc." shall mean "Mississippi 811, Inc." Whenever the term "Mississippi One-Call System, Inc." appears in this chapter, the term shall mean "Mississippi 811, Inc."

(m) "Mississippi 811, Inc." shall mean a nonprofit corporation organized under the laws of the State of Mississippi that provides a service through which a person can notify the operator(s) of underground facilities of plans to excavate and request marking of facilities.

(n) "Abandoned facility" shall mean any underground utility line or underground utility facilities no longer used in the conduct of the owner/operator's business and are not intended to be used in the future.

(o) "Emergency excavation" shall mean excavation at times of emergency involving danger to life, health or property or a customer service outage

(p) "Approximate location" of underground utility lines or underground facilities shall mean information about an operator's underground utility lines or underground facilities which is provided to a person by an operator and must be accurate within eighteen (18) inches measured horizontally from the outside edge of each side of such operator's facility, or a strip of land eighteen (18) inches either side of the operator's field mark, or the marked width of the facility or line plus eighteen (18) inches on each side of the marked width of the facility or line.

(q) "Positive response information system" or "PRIS" means an automated information system operated and maintained by Mississippi 811, Inc., that allows excavators, locators, facility owners or operators, and other affected parties to enter and/or determine the status of a locate request.

SOURCES: Laws, 1985, ch. 494, § 2; Laws, 1997, ch. 483, § 1; reenacted without change, Laws, 1999, ch. 302, § 2; Laws, 2008, ch. 497, § 1; Laws, 2009, ch. 382, § 1; Laws, 2010, ch. 427, § 1, eff from and after passage (approved Mar. 24, 2010.)

Amendment Notes — The 2010 amendment, substituted "found in this chapter" for "found in Sections 77-13-1 through 77-13-77" in the introductory language; added the last sentence in (g); substituted "Mississippi 811, Inc." for "Mississippi One-Call System, Inc." in (h) and (q); rewrote (l), which formerly read: "Mississippi One-Call

System, Inc.,” shall mean a nonprofit corporation organized under the laws of the State of Mississippi that provides a service through which a person can notify the operator(s) of underground facilities of plans to excavate and request marking of facilities”; and added present (m) and redesignated the remaining subsections accordingly.

§ 77-13-5. Excavator's investigation of site; notice to utility of planned excavation.

Editor's Note — Section 77-13-3 provides that the term “Mississippi One-Call System, Inc.” shall mean “Mississippi 811, Inc.”

§ 77-13-7. Notification of damaged lines.

Editor's Note — Section 77-13-3 provides that the term “Mississippi One-Call System, Inc.” shall mean “Mississippi 811, Inc.”

§ 77-13-9. Marking location of underground facilities; timeliness.

(1) Every person owning or operating underground utility lines or underground facilities shall, upon receiving advance notice of the commencement of excavation, in accordance with Section 77-13-7, make an investigation, and may report through the use of the PRIS the status of the work performed, within two (2) working days from the time notice is provided in accordance with this chapter to the Mississippi 811, Inc., to determine the approximate location of its underground utility lines or underground facilities in the area of the proposed excavation, and shall either: (a) mark the approximate location of underground utility lines and underground facilities in or near the area of the excavation, so as to enable the person engaged in excavation work to locate the lines and facilities in advance of and during the excavation work; (b) advise in writing or by telephone or electronic means that it has no underground utility lines or underground facilities in the excavation area; or (c) advise in writing or by telephone or electronic means that it can locate its underground utility lines or underground facilities in the excavation area only by excavation. If an operator can locate its underground utility lines or underground facilities in the excavation area only by excavation and has given proper notice of such, that operator shall be allowed a reasonable amount of additional time, not to exceed two (2) additional working days, to mark the approximate location of the underground utility lines or underground facilities.

(2) In lieu of such marking, the operator may request to be present at the site upon commencement of the excavation, so long as the operator complies within two (2) working days of the receipt of the notice.

(3) When an excavator, upon arriving at an excavation site, sees evidence of unmarked underground utility lines or underground facilities or encounters an unmarked underground utility line or underground facility on an excavation site after excavation has commenced where notice of intent has been made in accordance with the provisions of this chapter, that excavator must immediately contact Mississippi 811, Inc. All operator(s) thus notified must

contact the excavator within four (4) hours and inform the excavator of any of their known underground facilities, active or abandoned, at the site of the excavation.

(4) When marking the approximate location of the facilities, the operator shall follow the color code designated and described herein, unless otherwise provided for by specific administrative rule or regulation promulgated pursuant to this chapter, namely:

UTILITY OR TYPE OF FACILITY

Electric

Petroleum Product/Hazardous/

Flammable/Corrosive/Toxic

Materials, Product and Steam

Lines, Gas or Gaseous Material

Telecommunications (including fiber optic) and CATV

Potable Water

Reclaimed Water, Irrigation,

Slurry Lines

Sewer and Drain Lines

Temporary Survey Markings

Proposed Excavation

GROUP IDENTIFYING COLOR

Safety Red

High Visibility Safety

Yellow

Safety Alert Orange

Safety Precaution Blue

Purple

Safety Green

High Visibility Pink

White

(5) All utility facilities installed by owners or operators of utilities on or after January 1, 2010, shall be installed in such manner that the utility facility may be located by using a generally accepted electronic locating method.

(6) Except for emergency excavations, if, before the expiration of the two (2) working days waiting period, all identified facility owners or operators have responded to the locate request and all have indicated that their facilities are either not in conflict or have been marked as indicated through the use of the PRIS, then the person planning to perform excavation or blasting shall be authorized to commence work, subject to the other requirements of this section, without waiting the full two (2) working days.

SOURCES: Laws, 1985, ch. 494, § 5; Laws, 1997, ch. 483, § 4; reenacted without change, Laws, 1999, ch. 302, § 5; Laws, 2008, ch. 497, § 4; Laws, 2009, ch. 382, § 3; Laws, 2010, ch. 427, § 2, eff from and after passage (approved Mar. 24, 2010.)

Amendment Notes — The 2010 amendment, in (1) and (3), substituted “Mississippi 811, Inc.” for “Mississippi One-Call System, Inc.”; and added (1)(c) and made a related change.

§ 77-13-15. Notice to one-call system.

Editor’s Note — Section 77-13-3 provides that the term “Mississippi One-Call system” shall mean “Mississippi 811, Inc.”

§ 77-13-17. Operator responsibilities.

Editor's Note — Section 77-13-3 provides that the term "Mississippi One-Call system shall mean "Mississippi 811, Inc."

Cross References — Operator suffering damages as result of failure to participate as member of Mississippi 811, Inc., waives right to recover damages to operator's underground facilities from excavator who complied with provisions of this chapter, see § 77-13-23.

§ 77-13-23. Operator waives right to recover damages to operator's underground facilities under certain circumstances; exemption.

Any operator who suffers damages as a result of not participating as a member of Mississippi 811, Inc., waives the right to recover damages to the operator's underground facilities from the excavator if the excavator complied with the provisions of this chapter. The provisions of this section shall not apply to any municipality, as defined in Section 17-1-1, that owns or operates a utility.

SOURCES: Laws, 2010, ch. 427, § 3, eff from and after passage (approved Mar. 24, 2010.)

CHAPTER 15**Local Natural Gas Districts**

SEC.

77-15-1. Board of directors of local natural gas districts.

§ 77-15-1. Board of directors of local natural gas districts.

(1) Notwithstanding any other provisions of law to the contrary, all local natural gas districts containing two (2) or more municipalities and nonmunicipal customers shall establish and maintain a board of directors composed of: (a) the mayors of each municipality within the district whose terms shall be concurrent with their terms of office as mayor; and (b) one (1) system-user from each county within the district, who shall not be a public official. The county system-user board members shall be elected by the system-users residing outside of a municipality, in the county in which such board member resides. In order to qualify as a candidate for election to the board, each person shall obtain, on a petition, twenty-five (25) signatures from system-users in the county in which such person resides. The signatures shall be of system-users residing outside of a municipality and the candidate shall be a system-user who resides outside of a municipality. The board shall call an election within fifteen (15) days after July 1, 1989, to be held within sixty (60) days from the date such election is called. From and after July 1, 2007, the procedures for, and conduct of, the election of board members of the district shall be held in accordance with the provisions of subsection (6) of this section. Those persons

elected to the board shall serve until the next general election for supervisors and the election for such board members thereafter shall be held at the same time as the supervisor elections and the terms of such board members shall be concurrent with the terms of the supervisors. The board of directors, including any mayors who serve on the board, shall be entitled to compensation as follows: (a) the chairperson of the board shall receive Two Hundred Fifty Dollars (\$250.00) per month, and (b) all other board members shall receive Two Hundred Dollars (\$200.00) per month. The chairperson and vice chairperson shall be elected by and from the entire membership of the governing board at the first meeting in July of each year. The vice chairperson shall preside over meetings as the chairperson in the absence or incapacity of the chairperson. In addition, an official meeting may be called at any time by a two-thirds ($\frac{2}{3}$) proclamation by the board membership.

(2) Two (2) board municipal/county system-user board members who reside in his or her respective county, and must be customers of the district, and who must be system-users shall be appointed as follows for his or her initial term: (a) one (1) board member from the county lying in the northern section of the district, appointed by the Lieutenant Governor; and (b) one (1) board member from the county lying in the southern section of the district, appointed by the Governor. The appointed board municipal/county system-user board members may be elected public officials.

The initial terms of the two (2) municipal/county system-user board members shall begin July 1, 2005, and shall serve until June 30, 2008, and thereafter the municipal/county system-user board members, as described in this subsection (2), shall be elected by the municipal and county system-users as follows: The successors in office to the board member who was appointed from the county lying in the northern section of the district shall be elected only by the municipal and county system-users who reside in that county and not by all of the system-users in the district. The successors in office to the board member who was appointed from the county lying in the southern section of the district shall be elected only by the municipal and county system-users who reside in that county and not by all of the system-users in the district.

The municipal/county system-user board members shall be compensated as prescribed in subsection (1) of this section.

(3) All board members shall file any required statements of economic interest with the Ethics Commission as required by law. This section shall not apply to any local natural gas district which leases its distribution system to an investor-owned utility company regulated by the Public Service Commission.

(4) From and after July 1, 2004, the Board of Directors of the Chickasawhay Natural Gas District shall discontinue distribution of any of the revenues of the district to municipalities within the district.

(5) The provisions of this section shall only apply to the Chickasawhay Natural Gas District.

(6) The provisions of this subsection shall govern the procedure for, and conduct of, any election of the board of directors of the district. The board may

adopt any rules and regulations pertaining to the election of the board of directors of the district that are not inconsistent and do not conflict with the provisions of this subsection.

(a) Notice of the election of one or more members of the board of directors shall be sent by regular United States mail to each system-user not less than thirty (30) days and not more than sixty (60) days from the election date. The notice shall state the time, place and manner in which the system-users may vote for the board of directors.

(b) The election shall be held in a manner and according to procedures to be established by rules and regulations adopted by the board before the giving of notice of the election, and a printed copy of such rules and regulations shall accompany the notice.

(c) The rules and regulations for the conduct of the election shall include the following provisions:

(i) To qualify as a candidate, a person shall not be a public official and must be a county system-user and such person must submit to the board, not less than twenty (20) days before the election, a petition containing the signatures of twenty-five (25) system-users in the county in which the candidate resides;

(ii) Notice of the nomination of qualified candidates sent by regular United States mail to the system-users at least ten (10) days before the date of the election;

(iii) The method of voting on the date of the election shall be by personal attendance at the district's office in Waynesboro, by personal attendance at the district's office in Quitman, or by proxy;

(iv) Each system-user shall have one (1) vote, provided that when a billing for service is made to more than one (1) person at a single address or location, each such person shall be limited to casting a pro rata share of the one (1) vote to which the billing address or location is entitled; and

(v) The time of the election shall be fixed between the hours of 10:00 a.m. and 6:00 p.m. on a day of the week other than Sunday.

(d) A certified public accountant appointed by the board shall count all votes, whether cast by personal attendance or by proxy, and he shall certify the results of the election to the board within ten (10) days of the election.

SOURCES: Laws, 1989, ch. 560, § 1; Laws, 1991, ch. 504, § 1; Laws, 2004, ch. 562, § 4; Laws, 2005, ch. 496, § 1; Laws, 2006, ch. 428, § 1; reenacted and amended, Laws, 2007, ch. 592, § 1; Laws, 2010, ch. 344, § 1, eff from and after July 1, 2010.

Amendment Notes — The 2010 amendment deleted (7), which was a repealer for the section.

Index

C

CALLER ID.

Anti-spoofing, §§77-3-801 to 77-3-809.

G

GAS DISTRICTS.**Local natural gas districts.**

Board of directors, §77-15-1.

M

MISSISSIPPI 811, INC., §§77-13-1 to
77-13-23.**Operator waiver of right to recover
damages**, §77-13-23.

P

PUBLIC SERVICE COMMISSION,
§§77-1-1 to 77-1-55.**Interstate rates, charges and
classifications.**

Hiring of attorneys and consultants to
seek federal relief from, §77-1-55.

R

RAILROAD GRADE CROSSINGS.**Operation Lifesaver program**,
§77-9-250.

T

TELECOMMUNICATIONS.**Federal communications
commission standards for
carriers.**

Public service commission may apply,
§77-3-35.

TELEMARKETING, §§77-3-701 to
77-3-737.

